

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
Wheeling**

**NICHOLAS THOMAS BERRING-BILLMAN,**

Plaintiff,

v.

**Civil Action No. 5:21-CV-67**  
Judge Bailey

**JOHN DOE #1**, S.H.U. Lieutenant (sic),  
**JOHN DOES #2**, Correctional Officer,  
**JANE DOE**, Day-Shift Correctional Officer,  
**JOHN DOE #3**, Correctional Officer,  
**JOHN DOE #4**, Compound/Correctional  
Officer, **JOHN DOE #5**, Compound/Correctional  
Officer, **JOHN DOE #6**, Compound/Correctional  
Officer, and **MR. J. KONDRLA**, a counselor at  
USP Hazelton,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

The above referenced case is before this Court upon the magistrate judge's recommendation that this matter be dismissed with prejudice. See [Doc. 52].

This Court is charged with conducting a *de novo* review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. *Thomas v. Arn*, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written

objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. ***United States v. Schronce***, 727 F.2d 91 (4th Cir. 1984), *cert. denied*, 467 U.S. 1208 (1984). No objections have been filed to the magistrate judge's report and recommendation within the prescribed time frame.

Accordingly, a review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Therefore, the magistrate judge's report and recommendation [Doc. 52] is **AFFIRMED**, defendants' Motion to Dismiss, or in the Alternative, Motion for Summary Judgment [Doc. 46] is **GRANTED**, and this case is **DISMISSED WITH PREJUDICE**.

It is so **ORDERED**.

The Clerk is directed to mail a copy of this Order to plaintiff and to transmit copies to all counsel of record herein.

**DATED:** December 13, 2022.

  
JOHN PRESTON BAILEY  
UNITED STATES DISTRICT JUDGE